REMARKS

I. General

Claims 1–18 are pending in the present application. The following are the issues raised in the Office Action of May 2, 2007.

1) Claim 1 stands rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Publication No. 2004/0058678 A1 (filed Apr. 15, 2004, published Mar. 25, 2004) by deTorbal (hereinfafter "deTorbal").

2) Claims 1, 9 and 13 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U. S. Patent No. 6,243,575 (filed Aug. 25, 1998, issued Jun. 5, 2001) to Ohyama et al. (hereinafter "Ohyama") in view of deTorbal.

3) Claims 1, 2, 3, 8, 9, 11, 13 and 18 are rejected under 35 U.S.C. § 103 as being unpatentable over U.S. Patent No. 5,867,785 (filed Jan. 31, 1996, issued Feb. 2, 1999) to Averbuch et al. (hereinafter "Averbuch") in view of DeTorbal.

4) Claims 4, 10 and 17 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Averbuch in view of deTorbal and further in view of U.S. Patent No. 5,268,933 (filed Sep. 27, 1991, issued Dec. 7, 1993) to Averbuch (hereinafter "Averbuch-2").

5) Claims 5 and 6 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Averbuch in view of deTorbal and further in view of U.S. Application Publication No. 2002/0153316 A1 (filed Feb. 12, 2002, published Aug. 14, 2003) by Noll et al. (hereinafter "Noll").

6) Claim 7 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Averbuch in view of deTorbal and further in view of U.S. Patent Application Publication No. 2002/0160773 A1 (filed Mar. 28, 2002, published Oct. 31, 2002) by Gresham et al. (hereinafter "Gresham").

7) Claim 12 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Averbuch in view of deTorbal and further in view of Ohyama.

8) Claims 14 – 16 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Averbuch in view of deTorbal and further in view of Noll.

Applicants traverse the current rejections and respectfully request reconsideration and withdrawal of the rejections in light of the remarks contained herein.

II. The 35 U.S.C. § 102 Rejection of Claim 1

Claim 1 stands rejected under 35 U.S.C. § 102(e) as being anticipated by deTorbal. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of Cal.*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The elements must be arranged as required by the claim...." M.P.E.P. § 2131 citing *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990). "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The Examiner has the burden of establishing a *prima facie* case of anticipation. *See In re Skinner*, 2 USPQ2d 1788, 1788-89 (B.P.A.I. 1986) (stating, "[i]t is by now well settled that the burden of establishing a *prima facie* case of anticipation resides with the Patent and Trademark Office.").

Claim 1 recites, "associating a station of a wireless switch with said first access point; routing data between said plurality of wireless devices and said first access point using said first station . . . switching to routing data between said plurality of wireless devices and said second access point using said second station in response to said monitoring." Examiner cites to deTorbal, items 22 (an omni-directional antenna) and 26 (an on-board radio unit) as teaching a station of a wireless switch. Office Action, page 3. Further, Examiner cites to item 28 (mobile radio) as teaching wireless devices. However, deTorbal does not disclose that the on-board unit is a wireless switch or that there is routing between wireless devices and an access point using a station of deTorbal's on-board unit (the asserted wireless switch).

In fact, deTorbal expressly provides that "[t]he on-board radio unit 26 does not control or become involved in the normal communications between the mobile radios 28 and

the cellular network." Paragraph [0025]. Rather than serving as a wireless switch, the on-board unit of deTorbal is used to monitor the position of a vehicle and notifies an upcoming base station to prepare for handover. *See* paragraphs [0021] and [0027]. deTorbal, therefore, does not teach the limitations of claim 1 requiring "associating a station of a wireless switch with said first access point; routing data between said plurality of wireless devices and said first access point using said first station . . . switching to routing data between said plurality of wireless devices and said second access point using said second station in response to said monitoring." Accordingly, Applicant respectfully requests that Examiner withdraw the rejection, under 35 U.S.C. § 102(e), of claim 1.

III. The 35 U.S.C. § 103 Rejections

Claims 1 – 18 stand rejected under 35 U.S.C. § 103(a). The Examiner bears the initial burden of factually supporting any prima facie conclusion of obviousness. M.P.E.P. § 2142; *In re Peehs*, 612 F.2d 1287, 204 USPQ 835, 837 (CCPA 1980). In an obviousness rejection, "[u]nder § 103, the scope and content of the prior art are to be determined; differences between the prior art and the claims at issue are to be ascertained; and the level of ordinary skill in the pertinent art resolved." *Graham v. John Deere Co. of Kansas City*, 383 U.S. 1, 15 – 17 (1966).

Applicants respectfully assert that the rejected claims include differences over the cited art. Furthermore, in resolving the level of ordinary skill in the pertinent art, as required by the third step in *Graham*, the Examiner must step backward in time and into the shoes worn by a person of ordinary skill when the invention was unknown and just before it was made. The hypothetical person skilled in the art can summarily be described as one who thinks along lines of conventional wisdom in the art and as being neither one who undertakes to innovate nor one who has the benefit of hindsight. Applicants assert that if a person of ordinary skill in the art were to consult the applied art, that person would not find the below identified differences obvious.

A. The Rejections Claims 1, 9 and 13 based on Ohyama and deTorbal

1. Claim 1

Examiner states that both Ohyama and deTorbal are relied on in the obviousness rejection of claim 1. However, with regard to deTorbal, Examiner does not adequately point out what aspects of deTorbal Examiner is relying on to combine with Ohyama. Applicants have assumed that the citation to Ohyama, items 22 and 26, are in fact items in deTorbal because Examiner relied on these two items in the anticipation rejection of claim 1 and Ohyama does not discuss an item 26. *See* Office Action, pages 3 and 4.

As discussed above, items 22 and 26 of deTorbal does not teach a wireless switch. Rather, deTorbal teaches an on-board unit is used to monitor the position of a vehicle and to notify an upcoming base station to prepare for handover. *See* deTorbal paragraphs [0021] and [0027]. deTorbal, therefore, does not teach the limitations of claim 1 requiring "associating a station of a wireless switch with said first access point; routing data between said plurality of wireless devices and said first access point using said first station . . . switching to routing data between said plurality of wireless devices and said second access point using said second station in response to said monitoring."

Furthermore, claim 1 recites "associating a station of a wireless switch with said first access point . . . associating a second station of said wireless switch with said second access point . . . ." In contrast to the express language of the claim, Ohyama teaches the use of only a single station, i.e., mobile base station 30. In support of Applicant's position, Ohyama expressly teaches that mobile base station 30 scans perch channels and switches communications of mobile base station 30 from existing base station 10 to existing base station 11, see column 4, lines 27-35. Accordingly, this single station of Ohyama is insufficient to meet the claim.

In rejecting claim 1, the Examiner relies upon item *l* of Figure 4 of Ohyama to meet the foregoing "associating a station of a wireless switch with said first access point," Office Action at page 4. Item *l* of Figure 4 is a control channel, see e.g., column 5, line 21. Identifying a control channel in the applied art is insufficient to teach or suggest associating a station of a wireless switch with a first access point. Control channel *l* is not a station of a

wireless switch and, therefore, control channel *l* does not show associating a station of a wireless switch with a first access point.

The Examiner further relies upon item *m* in Figure 4 to meet the foregoing "associating a second station of said wireless switch with said second access point," Office Action at page 4. Item *m* of Figure 4 is a control channel, see e.g., column 5, line 34. Control channel *m* is insufficient to teach or suggest associating a second station of said wireless switch with a second access point. Control channel *m* is not a second station of a wireless switch and control channel *m* does not show associating a second station of a wireless switch with a second access point.

Moreover, even ignoring the fact that control channels *l* and *m* in Ohyama are not first and second stations, the use of such control channels as described in Ohyama fails to meet the claim. Claim 1 recites "associating a station of a wireless switch with said first access point . . . associating a second station of said wireless switch with said second access point . . . monitoring signal strengths of said first and second access points as received by said first and second stations . . . ." In contrast to these limitations of the claim, in Ohyama, "[t]he mobile base station 30 scans perch channels and switches the existing base station 10 to the existing base station 11 that secures the best communication condition at the moment," column 4, lines 26-29. Accordingly, Ohyama does not associate a control channel with a first access point, associate a control channel with a second access point, and monitor both access points as set forth in the claim. Instead, Ohyama sequentially scans control channels to identify one having a best communication condition at that moment.

In sum, Ohyama and deTorbal, individually or combined, do not teach all the limitations of claim 1. Accordingly, Applicants respectfully request that Examiner withdraw the rejection, under 35 U.S.C. § 103(a), of claim 1.

2. Claim 9

In rejecting claim 9, Examiner does not point out what portions of Ohyama Examiner relies on to combine with deTorbal. *See* Office Action, page 5. "The reasons for any adverse action or any objection or requirement will be stated in an Office action and such information or references will be given as may be useful in aiding the applicant . . . ." C.F.R. § 1.104 (2).

Thus, Applicant can only guess as to the nature of the combination of deTorbal and Ohyama, Examiner is asserting.

Assuming that Examiner is relying on deTorbal to teach a wireless switch, as done in the above discussed rejections, Applicant notes that deTorbal does not teach a wireless switch. As discussed above, deTorbal expressly provides that "[t]he on-board radio unit 26 does not control or become involved in the normal communications between the mobile radios 28 and the cellular network." Paragraph [0025]. Thus, rather than teaching a wireless switch, deTorbal teaches the on-board unit is used to monitor the position of a vehicle and notifies an upcoming base station to prepare for handover. *See* paragraphs [0021] and [0027].

Moreover, claim 9 recites "a packet switch controller for routing data between said plurality of wireless devices and external access points using said plurality of stations, wherein said packet switch controller is operable to switch communications between said plurality of stations in response to signal strengths received from said plurality of access points crossing threshold values." In rejecting claim 9, the Examiner again relies upon items *l* and *m* in Figure 4 to meet the foregoing "plurality of stations," Office Action at page 5. However, as stated above, items *l* and *m* are control channels. *See e.g.*, col. 5, lines 21 and 34. Control channels *l* and *m* are used only when connecting incoming and outgoing communications and Ohyama does not show a controller operable to switch communications between control channels *l* and *m*. *See* col. 11, lines 11-13. Thus, the use of control channels *l* and *m* is insufficient to show switching communications between a plurality of stations.

Thus, "a packet switch controller . . . operable to switch communications between said plurality of stations" is not taught or suggested by the disclosure of Ohyama. The combination of Ohyama and deTorbal, therefore, does not teach all the limitations of claim 9. Accordingly, Applicants respectfully requests that Examiner withdraw the rejection, under 35 U.S.C. § 103(a), of claim 9.

3. Claim 13

Claim 13 recites, "a wireless switch comprising: a plurality of stations for communicating with said plurality of access points; an internal access point for managing

communication with a plurality of wireless devices . . . ." Examiner cites to items *l* and *m* of Ohyama as teaching "a plurality of stations" of a wireless switch. However, as discussed above items *l* and *m* are control channels. *See* col. 5, line 37. Therefore, Ohyama does not teach a wireless switch comprising a plurality of stations. Further, as discussed above, deTorball does not teach a wireless switch. Thus, Ohyama and deTorball cannot be combined to render claim 13 obvious. Accordingly, Applicants respectfully requests that Examiner withdraw the rejection, under 35 U.S.C. § 103(a), of claim 13.

B. The Rejections of Claims 1, 2, 3, 8, 9, 11, 13 and 18 based on Averbuch and deTorbal

Claims 1, 2, 3, 8, 9, 11, 13 and 18 are rejected under 35 U.S.C. § 103 as being unpatentable over Averbuch in view of DeTorbal. The rejections of the claims are discussed below.

1. Claim 1

In rejecting claim 1, Examiner concedes, "Averbuch did not teach expressly first and second station of a wireless switch." Office Action, page 6. To cure this conceded deficiency of Averbuch, Examiner cites to deTorbal (items 22, 24 and 26, Fig. 2) as teaching first and second station of a wireless switch. Office Action, pages 6 – 7. As discussed above, deTorbal does not teach a first and second station of a wireless switch. Rather, deTorbal teaches an on-board unit (26) is used to monitor the position of a vehicle and to notify an upcoming base station to prepare for handover. *See* deTorbal paragraphs [0021] and [0027]. The express disclosure in deTorbal that "[t]he on-board radio unit 26 does not control or become involved in the normal communications between the mobile radios 28 and the cellular network" is inconsistent with Examiner's assertions that the on-board unit of deTorbal teaches a first and second station of a wireless switch. *See* deTorbal, paragraph [0025]; Office Action, page 6.

Moreover, claim 1 recites, "switching to routing data between said plurality of wireless devices and said second access point using said second station in response to said monitoring." Examiner cites to Averbuch, col. 8, lines 8 - 35 as teaching this limitation of claim 1. Office Action, page 6. The cited portion of Averbuch, however, does not teach or suggest this limitation. In contrast to Examiner's assertion, Averbuch teaches a process of

handing off from one stationary base site to another based on either a pre-programmed geographic layout of the radio communication system, the direction of travel of the transportation device, a pre-programmed travel path and a history of areas traversed by the transportation device. *See* col. 8, lines 8 – 67. Thus, Examiner has not shown Averbuch teaches "switching to routing data . . . in response to . . . monitoring" as required in claim 1. As discussed above, deTorbal also does not teach this limitation. The combination of Averbuch and deTorball, therefore, does not render claim 1 obvious. Accordingly, Applicants respectfully request that Examiner withdraw the rejection, under 35 U.S.C. § 103, of claim 1.

2. Claims 2, 3, 8

Claims 2, 3 and 8 depend from claim 1 and thus inherit the limitations of claim 1. As discussed above, the combination of Averbuch and deTorbal does not teach all the limitations of claim 1. For at least this reason, claims 2, 3 and 8 are patentable. Accordingly, Applicants respectfully request that Examiner withdraw the rejection, under 35 U.S.C. § 103, of claims 2, 3 and 8.

3. Claim 9

In rejecting claim 9, Examiner concedes, "Averbuch did not teach expressly plurality of stations for communicating with external access points." Office Action, page 8. To cure this conceded deficiency of Averbuch, Examiner cites to deTorbal as teaching a plurality of stations communicating with external access points. However, there is no such teaching in deTorbal. In contradiction to Examiner's assertion, deTorbal teaches an on-board unit is used to monitor the position of a vehicle and to notify an upcoming base station to prepare for handover. *See* deTorbal paragraphs [0021] and [0027]. Further, deTorbal expressly teaches that "[t]he on-board radio unit 26 does not control or become involved in the normal communications between the mobile radios 28 and the cellular network." deTorbal, paragraph [0025]. This teaching is inconsistent with Examiner's assertions that the on-board unit of deTorbal teaches "a plurality of stations for communicating with external access points . . . ." deTorbal, therefore, cannot cure the conceded deficiency of Averbuch.

4. Claims 11

Claim 11 depends from claim 9 and thus inherits the limitations of claim 9. As discussed above, the combination of Averbuch and deTorbal does not teach all the limitations of claim 9. Specifically, Examiner has not shown Averbuch and deTorbal teaches the limitation "a plurality of stations for communicating with external access points . . . ." For at least this reason, claim 11 is patentable. Accordingly, Applicants respectfully request that Examiner withdraw the rejection, under 35 U.S.C. § 103, of claim 11.

5. Claim 13

In rejecting claim 13, Examiner concedes, "Averbuch did not teach expressly plurality of stations for communicating with access points." To cure this conceded deficiency of Averbuch, Examiner cites to deTorbal, Fig. 2, items 22, 24 and 26, as teaching a plurality of stations communicating with external access points. Office Action, page 9. However, there is no such teaching in deTorbal. *Id.* In contradiction to Examiner's assertion, deTorbal teaches an on-board unit is used to monitor the position of a vehicle and to notify an upcoming base station to prepare for handover. *See* deTorbal paragraphs [0021] and [0027]. deTorbal expressly teaches that "[t]he on-board radio unit 26 does not control or become involved in the normal communications between the mobile radios 28 and the cellular network." deTorbal, paragraph [0025]. This teaching is inconsistent with Examiner's assertions that the on-board unit of deTorbal teaches "a wireless switch comprising: a plurality of stations for communicating with said plurality of access points." Office Action, page 9. deTorbal, therefore, cannot cure the conceded deficiency of Averbuch.

6. Claim 18

Claim 18 depends from claim 13 and thus inherits the limitations of claim 13. As discussed above, the combination of Averbuch and deTorbal does not teach all the limitations of claim 13. Specifically, Examiner has not shown that Averbuch and deTorbal teaches the limitation requiring "a wireless switch comprising: a plurality of stations for communicating with said plurality of access points." For at least this reason, claim 18 is patentable. Accordingly, Applicants respectfully request that Examiner withdraw the rejection, under 35 U.S.C. § 103, of claim 18.

C. The Rejections of Claims 4, 10 and 17 based on Averbuch, deTorbal and Averbuch-2

Claims 4, 10 and 17 depends from claims 1, 9 and 13 respectively. As discussed above, the combination of Averbuch and deTorbal does not teach all the limitations of claims 1, 9 and 13. Additionally, Examiner has not shown that Averbuch-2 teaches the limitations of claims 4, 10 and 17 that are inherited from claims 1, 9 and 13. Specifically, Examiner has not shown Averbuch and deTorbal teaches the limitations in claim 1 requiring a first and second station of a wireless switch and "switching to routing data . . . in response to . . . monitoring." With regard to claim 9, Examiner has not shown the limitation "a plurality of stations for communicating with external access points . . . ." With regard to claim 13, Examiner has not shown the limitation requiring "a wireless switch comprising: a plurality of stations for communicating with said plurality of access points."

Examiner does not rely on Averbuch-2 for these teachings of claims 1, 9 and 13 and a review of Averbuch-2 does not reveal Averbuch-2 teaches these limitations. Thus, a combination of Averbuch, deTorbal and Averbuch-2 does not teach all the limitations of claims 4, 10 and 17.

Moreover, claim 17 recites "The wireless system of claim 13 wherein said packet switch controller maintains a connection with one of said plurality of access points that is not currently used for data communications by routing ping packets through said one of said plurality of access points." In contrast to the express language of the claim, Averbuch-2 teaches a mobile system that receives voice or control data transmissions from two base stations. In support of Applicant's position, the reference expressly requires that the two base stations transmit the same voice or control data at the same time to the mobile system, see column 3, lines 11-15. Accordingly, since Averbuch-2 does not teach or suggest maintaining a connection with an access point that is not currently being used for data communications by routing ping packets through the access point, the disclosure in the reference is insufficient to meet the limitations of claim 17.

In sum, the applied art does not teach all the limitations of claims 4, 10 and 17. Accordingly, Applicants respectfully request that Examiner withdraw the rejection, under 35 U.S.C. § 103, of claims 4, 10 and 17.

D. The Rejections of claims 5 and 6 based on Averbuch, deTorbal and Noll.

Claims 5 and 6 depend from claim 1. As discussed above, the combination of Averbuch and deTorbal do not teach all the limitations of claim 1. Specifically, Examiner has not shown the combination of Averbuch and deTorbal teaches the limitations in claim 1 requiring a first and second station of a wireless switch and "switching to routing data . . . in response to . . . monitoring." Additionally, Examiner has not shown that Noll teaches these limitations of claims 5 and 6 inherited from claim 1. Applicant's review of Noll does not reveal that Noll teach these limitations. Thus, a combination of Averbuch, deTorbal and Noll does not teach all the limitations of claims 5 and 6.

Moreover, Examiner concedes that "[n]either Averbuch nor deTorbal teaches a base station associated with a first access point with a directional antenna." Office Action, page 11. Examiner relies on Noll for teaching the conceded deficiency of Averbuch and deTorbal. However, Examiner has merely cited and asserted that a portion of Noll teaches a base station with an antenna. By citing that devices recited in a step of a method claim, exist in the applied art is insufficient to show that the applied art teach the step in question. "Rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S.____ (2007). Thus, Examiner's reliance on Noll for the step at issue, namely "operating a base station associated with said first access point by tracking movement of said plurality of wireless devices and said wireless switch using a directional antenna," is insufficient for an obviousness rejection under *KSR Int'l Co.*

With regard to claim 6, Examiner concedes, "Averbuch in view of deTorbal teaches all the particulars of the claim except monitoring received signal strengths associated with respective patterns of antenna elements of said directional antenna; and switching between said patterns in response to monitoring received signal strengths associated with the respective patterns." Office Action, page 12. Examiner then relies on Noll as teaching these limitations missing from Averbuch and deTorbal.

Examiner's citation to Noll, however, is directed to selecting of antenna elements for use by a base station in communicating with repeater stations and the adjustment of the phase

or amplitude of RF signals received and transmitted by the antenna elements. Paragraph [0018], lines 1 – 15. In fact, Noll is generally directed to isolating communications that may interfere with each other. *See* Abtract (stating, "[t]he system selectively configures the first smart antenna system to spatially isolate communications on the first RF backhaul from communications on a second RF backhaul of a second repeater."). Thus, Examiner has not shown that Noll teaches "monitoring received signal strengths associated with respective patterns of antenna elements of said directional antenna; and switching between said patterns in response to monitoring received signal strengths associated with the respective patterns," as required in claim 6.

In sum, Examiner has not shown the applied art teaches all the limitations of claims 5 and 6. Accordingly, Applicants respectfully request that Examiner withdraw the rejection, under 35 U.S.C. § 103, of claims 5 and 6.

E. The Rejection of Claim 7 based on Averbuch, deTorbal and Gresham

Claim 7 depends from claim 1. As discussed above, Averbuch and deTorbal do not teach all the limitations of claim 1. Specifically, Examiner has not shown the combination of Averbuch and deTorbal teaches the limitations in claim 1 requiring a first and second station of a wireless switch and "switching to routing data . . . in response to . . . monitoring." Examiner does not rely on Gresham for the limitations of claim 1 and a review of Gresham does not reveal that Gresham teaches all the limitations of claim 1 that are missing from Averbuch and deTorbal. In fact, the handover between a first base station and second base station described in paragraphs [178] to [181] is insufficient to teach the limitations because the handover described is based on pre programming the base station with its coverage area and handing over from one base station to another when the aircraft is in a transition area. *See* paragraph [0180] and Fig. 17. Therefore, the combination of Averbuch, deTorbal and Gresham does not teach all the limitations of claim 7. Accordingly, Applicants respectfully request that Examiner withdraw the rejections, under 35 U.S.C. § 103(a) of claim 7.

Moreover, Examiner concedes that "Averbuch in view of deTorbal teaches all the particulars of the claim except wherein the packets from the first access point that are associated with transmission control protocol (TCP) sessions." Office Action, page 12. Examiner relies on Gresham for the limitations Examiner concedes are missing from

Averbuch and deTorbal. However, the cited portions of Gresham do not teach these limitations of claim 7. Rather, the portion of Gresham on which Examiner relies teaches TCP/IP traffic between a remote computer terminal and a server. The server and computer is insufficient to teach first and second access points and first and second stations as described in claim 7. Therefore, Examiner has not shown switching that comprises "receiving packets from the first access point that are associated with transmission control protocol (TCP) sessions; and sending acknowledgement packets in response to said receiving using said second station" as required in claim 7.

F. The rejection of claim 12 based on Averbuch, deTorbal and Ohyama

Claim 12 depends from claim 9. As discussed above, Averbuch and deTorbal do not teach all the limitations of claim 9. Neither do Ohyama and deTorbal teach all the limitations of claim 9. In fact, as discussed above, both combinations fail to teach at least the limitation requiring, "a plurality of stations for communicating with external access points . . . ." Consequently, a combination of Averbuch, deTorbal and Ohyama cannot teach all the limitations of claim 12 inherited from claim 9. Accordingly, Applicants respectfully request that Examiner withdraw the rejections, under 35 U.S.C. § 103(a) of claim 12.

G. The rejection of claims 14 – 16 based on Averbuch, deTorbal and Noll

Claims 14 – 16 depend from claim 13. As discussed above, Averbuch and deTorbal do not teach all the limitations of claim 13. Specifically, Examiner has not shown the combination of Averbuch and deTorbal teaches the limitations in claim 1 requiring a first and second station of a wireless switch and "switching to routing data . . . in response to . . . monitoring." Examiner does not rely on Noll for these limitations of claim 13 and a review of Noll does not reveal that Noll teaches the limitations of claim 13 that are missing from Averbuch and deTorbal. Therefore, the combination of Averbuch, deTorbal and Noll do not teach all the limitations of claims 14 – 16

Moreover, with regard to claim 14, Examiner concedes that "Averbuch in view of DeTorbal . . . teaches all the particulars of the claim except a base station with a directional antenna." Office Action, page 14. The limitations of claim 14 currently at issue, however, require more than Examiner has stated. Claim 14 requires, "wherein one of said plurality of

access points comprises a base station with a directional antenna, said base station comprising a controller that tracks movement of said wireless switch using said directional antenna through a coverage area of said one of said plurality of access points."

Examiner's citation to Noll, however, is directed to selecting of antenna elements for use by a base station in communicating with repeater stations and the adjustment of the phase or amplitude of RF signals received and transmitted by the antenna elements. Paragraph [0018], lines 1 – 15. In fact, Noll is generally directed to isolating communications that may interfere with each other. *See* Abstract (stating, "[t]he system selectively configures the first smart antenna system to spatially isolate communications on the first RF backhaul from communications on a second RF backhaul of a second repeater."). Thus, Noll does not teach at least the limitations of claim 14 requiring "a controller that tracks movement of said wireless switch using said directional antenna through a coverage area of said one of said plurality of access points."

With regard to claims 15 and 16, Examiner asserts that Noll, paragraph [0018], lines 1 – 15 teach "monitoring signal strengths received from said wireless switch by a plurality of patterns of discrete antenna elements of said directional antenna." However, there is no such teaching in the cited portion of Noll. Rather, the citation teaches selecting of antenna elements for use by a base station in communicating with repeater stations and the adjustment of the phase or amplitude of RF signals received and transmitted by the antenna elements.

Moreover, as discussed above, Noll is directed to isolating communications that may interfere with each other. Examiner, therefore has not shown that Noll teaches or suggest the limitations of claim 15 and 16 requiring "wherein said controller of said base station monitors signal strengths received from said wireless switch by a plurality of patterns of discrete antenna elements of said directional antenna." Accordingly, Applicants respectfully request that Examiner withdraw the rejections, under 35 U.S.C. § 103(a) of claims 14 – 16.

IV. Summary

In view of the above, Applicants believe the pending application is in condition for allowance. Accordingly, Applicants request that the claims be passed to issue. Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 06-2380, under Order No. 64032/P015US/10404210 from which the undersigned is authorized to draw.

Dated: August 1, 2007

Respectfully submitted,

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